

## **I. REMARKS**

### **A. General**

The Applicant has noted the change in Examiner, from Robert E. Pezzuto to Thomas A. Beach, for the present application.

The Applicant would like to respectfully bring to the attention of Examiner Beach the fact that the most recent Office Action dated August 11, 2006 is the ***fifth*** Office Action to issue with regard to the present application, such that active examination of the present application has now been ongoing for over ***three*** years. Furthermore, the examination of the application has been notably piecemeal, in that while the claims have not been amended since the filing of a Response to the Office Action dated January 22, 2004, newly unearthed prior art references have continuously been cited in almost every subsequent Office Action. While the Applicant has successfully argued and overcome all of the rejections to date, the Applicant feels that this piecemeal examination has been unjustified and unfairly applied to this case. The Applicant notes that MPEP § 707.07(g) expressly states that:

Piecemeal examination should be avoided as much as possible. The examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references.

The Applicant is further disappointed to note that the only prior art reference cited in the Office Action dated August 11, 2006 is U.S. Patent No. 6,219,653 (hereinafter to be referred to as O'Neill et al.). This is the exact same prior art reference as previously cited in the Office Action of January 22, 2004, which the Applicant believed to have successfully argued and overcome in the Response filed on April 22, 2004. Furthermore, as in the case of the Office Action of January 22, 2004, the rejection raised in the latest

Office Action does not provide an actual indication of where in the O'Neill et al. document (i.e. specific passages, paragraphs or Figures) each of the limitations of the independent claims of the present application is disclosed, taught or suggested.

In the interest of assisting Examiner Beach, the Applicant is submitting the present Response with a reiteration and elaboration of the arguments presented in the Response filed on April 22, 2004. However, given the particular circumstances described above for the present application, the Applicant respectfully requests that if, upon considering the below arguments, the Examiner still does not consider the claims of the application to be in full condition for allowance, the Examiner kindly contact directly the Applicant's U.S. representative (Ralph Dowell, Reg. 26,868 @ 1-703-415-2555) to arrange for a telephonic discussion of the case. Obviously, given the time and expense already incurred to prosecute the present application, the Applicant would be very grateful if the application could be placed in allowable condition as soon as possible and without the need for further proceedings.

#### **B. Summary of the Amendments**

The present application still contains 77 claims.

No amendments have been made to the application.

#### **C. Summary of the Rejection and Reply**

In the Office Action, the Examiner has rejected claims 1, 6-52 and 64-92 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,219,653 (O'Neill et al).

The Applicant respectfully traverses this rejection and submits that the

subject matter of claims 1, 6-52 and 64-92 distinguishes clearly and patentably over the cited reference, as discussed below.

Claim 1

The Examiner's attention is directed to the following emphasized features of independent claim 1:

1. A computer readable storage medium containing a program element for execution by a CPU, said program element comprising:
  - a) a first program component for causing a computer to deliver first information to a user, the first information prompting the user to enter at the computer information about a rail transportation service for shipment of goods by one or more railcars;
  - b) a second program component for receiving information about a basic pool of railcars, **said second program component implementing a filter for filtering the basic pool of railcars based on one or more filtering criteria to produce a filtered pool of railcars**, said second program component causing the computer to deliver second information to the user, the second information prompting the user to select at the computer one or more railcars among the filtered pool of railcars for the shipment of goods;
  - c) a third program element for computing a price for the shipment of the goods at least in part on the basis of:
    - i) the rail transportation service;
    - ii) one or more characteristics of the railcars in the filtered pool of railcars selected by the user.

The Applicant respectfully submits that O'Neill et al. do not disclose, teach or suggest the above-identified feature of independent claim 1. More specifically, there is neither mention nor suggestion in the O'Neill et al. reference of *a second program component implementing a filter for filtering the basic pool of railcars based on one or more filtering criteria to produce a filtered pool of railcars*, as claimed in claim 1.

Rather, O'Neill et al. teach away from the feature identified above in claim 1. More specifically, at column 18, lines 5-45, O'Neill et al. teach that, when a user of a trading client 26 is implementing the trading exchange application, the user enters delivery information for each business location via a graphical user interface. In doing so, the user identifies a list of available

delivery containers supported by the freight calculation system 10 and specifies a subset of these available delivery containers that are authorized to deliver to and/or from a particular business location. This information provided by the user about the authorized delivery containers for the particular business location is then communicated to platform 18 for storage. Thus, each trading client 26 is responsible for specifying to the system 10 which particular delivery containers may be used to deliver to and/or from its associated business locations.

The above-summarized teachings of O'Neill et al. obviously **preclude** the use of, as well as any need for, a "program component implementing a filter for filtering the basic pool of railcars on the basis of one or more filtering criteria to produce a filtered pool of railcars", as claimed in claim 1. Clearly, there is no need for any such automated filtering of railcars by the freight calculation system in O'Neill et al., nor any suggestion of doing so, since authorized delivery containers (including railcars) for each business location are *pre-specified* by the trading clients to the freight calculation system.

In view of the foregoing, the Applicant respectfully submits that O'Neill et al. neither explicitly disclose nor implicitly suggest all of the limitations of independent claim 1. Accordingly, the subject matter of claim 1 is believed to be novel and non-obvious over O'Neill et al. and the Examiner is respectfully requested to withdraw the rejection of claim 1 under 35 U.S.C. §102(b).

If the Applicant's argument is unconvincing and the Examiner continues to hold that O'Neill et al. anticipate the invention claimed in claim 1, the Examiner is respectfully invited to indicate where in the O'Neill et al. document each of the limitations of independent claim 1 is taught. The Applicant would be particularly interested in understanding which passage(s) of O'Neill et al. disclose the above-emphasized feature of claim 1.

Claims 6-30

Claims 6-30 are all either directly or indirectly dependent on claim 1 and therefore include all the limitations of independent claim 1, including the feature already shown to be absent from O'Neill et al. Thus, for the same reasons as those set forth above in support of claim 1, the Examiner is requested to withdraw the rejection of claims 6-30.

Notwithstanding the foregoing argument, the Applicant respectfully submits that the subject matter of dependent claims 12, 13, 14, 16, 17, 18, 20, 21, 23, 24 and 25 is neither taught nor in any way suggested by O'Neill et al. However, if the Examiner disagrees and continues to hold that O'Neill et al. anticipate these claims, the Examiner is respectfully invited to indicate where in the O'Neill et al. patent each claimed feature is disclosed.

Claim 31

The Examiner's attention is directed to the following emphasized features of independent claim 31:

31. A method for computing the price for shipping goods, comprising:
- a) causing a computer to deliver first information to a user, the first information prompting the user to enter at the computer information about a rail transportation service for shipment of goods by one or more railcars;
  - b) receiving information about a basic pool of railcars and **filtering the basic pool of railcars based on one or more filtering criteria to produce a filtered pool of railcars;**
  - c) causing the computer to deliver second information to the user, the second information prompting the user to select at the computer one or more railcars among the filtered pool of railcars for the shipment of goods;
  - d) computing a price for the shipment of the goods at least in part on the basis of:
    - i) the rail transportation service;
    - ii) one or more characteristics of the railcars in the filtered pool of railcars selected by the user.

For the same reasons discussed above with regard to independent claim 1, the Applicant respectfully submits that O'Neill et al. do not explicitly

disclose nor implicitly suggest the above-emphasized feature of independent claim 31. Accordingly, the subject matter of claim 31 is believed to be novel and inventive over the cited prior art and, as such, in condition for allowance. The Examiner is therefore respectfully requested to withdraw the rejection of claim 31 under 35 U.S.C. §102(b).

#### Claims 32-52

Claims 32-52 are all either directly or indirectly dependent on claim 31 and therefore include all the limitations of independent claim 31, including the feature already shown to be absent from O'Neill et al. Thus, claims 32-52 are also believed to be novel and non-obvious over the cited prior art and, as such, in condition for allowance.

#### Claim 64

The Examiner's attention is directed to the following emphasized features of independent claim 64:

64. A server system for computing a quote for a price for shipping goods by rail, said server system containing a program element for execution by a CPU, said program element comprising:
- a) a first program component for causing a client system to deliver first information to a user, the first information prompting the user to enter at the client system information about a rail transportation service for shipment of goods by one or more railcars;
  - b) a second program component for receiving information about a basic pool of railcars, **said second program component implementing a filter for filtering the basic pool of railcars based on one or more filtering criteria to produce a filtered pool of railcars**, said second program component causing the client system to deliver second information to the user, the second information prompting the user to select at the client system one or more railcars among the filtered pool of railcars for the shipment of goods;
  - c) a third program element for computing a price for the shipment of the goods at least in part on the basis of:
    - i) the rail transportation service;
    - ii) one or more characteristics of the railcars in the filtered pool of railcars selected by the user.

For the same reasons discussed above with regard to independent claim 1, the Applicant respectfully submits that O'Neill et al. do not explicitly disclose nor implicitly suggest the above-emphasized feature of independent claim 64. Accordingly, the subject matter of claim 64 is also believed to be novel and inventive over the cited prior art and, as such, in condition for allowance. The Examiner is therefore respectfully requested to withdraw the rejection of claim 64 under 35 U.S.C. §102(b).

#### Claims 65-66

Claims 65-66 are both directly dependent on claim 64 and therefore include all the limitations of independent claim 64, including the feature already shown to be absent from O'Neill et al. Thus, claims 65-66 are also believed to be novel and non-obvious over the cited prior art and, as such, in condition for allowance.

#### Claim 67

The Examiner's attention is directed to the following emphasized limitations of independent claim 67:

67. A client-server system for computing a quote for a price for shipping goods by rail, comprising:
- a) a client system;
  - b) a server system, said client system and said server system operative to exchange messages over a data network;
  - c) a first program component for execution on said server system for sending messages to said client system causing said client system to deliver information prompting the user to enter at the client system information about a rail transportation service for shipment of goods by one or more railcars;
  - d) a second program component for execution on said server system for receiving information about a basic pool of railcars, **said second program component implementing a filter for filtering the basic pool of railcars based on one or more filtering criteria to produce a filtered pool of railcars**, said second program component sending messages to said client system causing said client system to deliver information to the user prompting the user to select at said client system one or more railcars among the filtered pool of railcars for the shipment of goods;

- e) said client system being operative to send to said server system messages to communicate to said server the information about the rail transportation service entered by the user and the one or more rail cars selected by the user;
- f) a third program element executed at said server system for computing a price for the shipment of the goods at least in part on the basis of:
  - i) the rail transportation service;
  - ii) one or more characteristics of the railcars in the filtered pool of railcars selected by the user.

For the same reasons discussed above with regard to independent claim 1, the Applicant respectfully submits that O'Neill et al. do not explicitly disclose nor implicitly suggest the above-emphasized feature of independent claim 67. Accordingly, the subject matter of claim 67 is also believed to be novel and inventive over the cited prior art and, as such, in condition for allowance. The Examiner is therefore respectfully requested to withdraw the rejection of claim 67 under 35 U.S.C. §102(b).

#### Claims 68-69

Claims 68-69 are all either directly or indirectly dependent on claim 67 and therefore include all the limitations of independent claim 67, including the feature already shown to be absent from O'Neill et al. Thus, claims 68-69 are also believed to be novel and non-obvious over the cited prior art and, as such, in condition for allowance.

#### Claim 70

The Examiner's attention is respectfully directed to the following emphasized limitations of independent claim 70:

- 70. A computer readable storage medium containing a program element for execution by a CPU, said program element comprising:
  - a) a first program component for causing a computer to deliver first information to a user, the first information prompting the user to enter at the computer information about a rail transportation service for shipment of goods by one or more railcars;



- b) a second program component for receiving information about a basic pool of railcars, **said second program component implementing a filter for filtering the basic pool of railcars, at least in part on the basis of information about the type of goods to be shipped, to produce a filtered pool of railcars**, said second program component causing the computer to deliver second information to the user, the second information prompting the user to select at the computer one or more railcars among the filtered pool of railcars for the shipment of goods;
- c) a third program element for computing a price for the shipment of the goods at least in part on the basis of:
  - i) the rail transportation service;
  - ii) one or more characteristics of the railcars in the filtered pool of railcars selected by the user.

The Applicant respectfully submits that O'Neill et al. do not disclose, teach or suggest the above-identified feature of independent claim 70. More specifically, there is neither mention nor suggestion in the O'Neill et al. reference of *a second program component implementing a filter for filtering the basic pool of railcars, at least in part on the basis of information about the type of goods to be shipped, to produce a filtered pool of railcars.*

Accordingly, for similar reasons as those expressed above with regard to independent claim 1, the Applicant respectfully submits that independent claim 70 is novel and non-obvious over O'Neill et al. and, as such, in full condition for allowance. The Examiner is therefore respectfully requested to withdraw the rejection of claim 70 under 35 U.S.C. §102(b).

If the Examiner disagrees and continues to hold that O'Neill et al. anticipate the subject matter of independent claim 70, the Examiner is respectfully invited to indicate where in the O'Neill et al. reference the above-emphasized feature of independent claim 70 is disclosed.

#### Claims 71-92

Claims 71-92 are all either directly or indirectly dependent on claim 70 and therefore include all the limitations of independent claim 70, including the feature already shown to be absent from O'Neill et al. Thus, claims 71-92 are

also believed to be novel and non-obvious over the cited prior art and, as such, in condition for allowance.

### III. CONCLUSION

In view of the above, it is respectfully submitted that claims 1, 6-52 and 64-92 are in condition for allowance. Reconsideration of the rejections is requested. Allowance of claims 1, 6-52 and 64-92 at an early date is solicited.

If the claims of the application are not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims or in making constructive suggestions so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Date: 2/9/2007

Respectfully submitted,

  
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